HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION NO. 83 OF 2007

BETWEEN

Fakir Hyder Ali, S/o Mahaboob, aged about 75 years and 16 others

……petitioners

Vs.

The State of Andhra Pradesh rep. By its District Collector, Ranga Reddy District, Lakdikapool, Hyderabad and two others

…..Respondents

HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION NO. 83 OF 2007

ORAL ORDER: **(per the Hon'ble Sri Justice B. PRAKASH RAO)**

Heard Sri D. Prakash Reddy, the leaned senior counsel appearing on behalf of the petitioner and also the learned Government Pleader for Land Grabbing appearing on behalf of the respondents.

Petitioners herein, who are the respondents before the Special Court under the A.P. Land Grabbing (Prohibition) Act 1982, filed this Writ Petition inter alia, seeking a Writ of Mandamus challenging the orders dated 15.3.2005 passed in L.G.C.No. 191 of 1999.

Briefly stated the facts of the case are that in an application filed by the respondent Government under Section 8 (1) of the A.P. Land Grabbing (Prohibition) Act, sought a declaration that the petitioners who are the land grabbers and accordingly needs to be evicted from S.No. 631 of Turkayamjal Village, Hayathnagar Mandal, Ranga Reddy District.

The case of the petitioners-land grabbers is that they have been in possession of the land and they have right title and interest and therefore, they cannot be called as land grabbers.

After considering the respective pleadings from both sides, the court below framed the issues and thereafter parties went to trial. On behalf of the respondents-Government PWs 1 to 2 were examined and Exs. A1 to A4 were marked and on behalf of the petitioners-land grabbers RWs-1 and 2 were examined and Exs. B-1 to B-20 were marked.

On perusal of the evidence both oral and documentary on record the court below held that the petitioners are in possession of the land in question from 1954-55 and therefore, they cannot be

termed as land grabbers, therefore, instead of ordering eviction as sought for by the respondents, granted such relief to the petitioners to assign land in favour of the petitioners. Hence, the present Writ Petition.

Sri D. Prakash Reddy, learned senior counsel submits that the petitioners are in possession of the land and they have protected their title deeds and therefore, they are not land grabbers and the question of declaring them as land grabbers and approaching the authorities for assignment of the land as such does not arise. He further submits that the court below after taking into consideration the revenue records rightly directed the Government to assign the land and therefore, the order does not call for any interference.

On the other hand the leanred Government Pleader submits that the court below is in error in directing to assign the land.

Now the point for consideration is whether in the facts and circumstances of the case the Special Court was right in giving directions directing to assign the land to the petitioners in an application filed by the Government under Section 8(1) of the A.P. Land Grabbing (Prohibition) Act ?

It is not in dispute about the facts as stated above, in the present case, that the respondent-Government filed an application under Section 8(1) of the A.P. Land Grabbing (Prohibition) Act, to declare the petitioners as land grabbers, whereas the case of the petitioners, who are land grabbers is that they are in possession and they have right title and interest over the land from the year 1954-55. In support of their claim they have also filed documents, which were marked as Ex. B1 to B-20 apart from the oral evidence. Though on behalf of the respondents the local Mandal Revenue Officer and Assistant Director Survey and Land Records were examined, they sought to place reliance on other pahanies of Exs. A1, A2 and A3, but the same were not of any help. The court below

categorically held that the petitioners are in possession of the land. The Special Court not only given such finding that the petitioners are in possession of the land but also directed for consideration of the petitioners for grant of assignment instead of directing eviction. It is also to be noticed that the court below has found that the petitioners are not land grabbers and again a direction is given to the petitioners to approach the authorities to assign the land. No challenge has been made by the respondent-Government, who is the main applicant before the Special Court by way of any writ or any other proceedings. Therefore, the finding that the petitioners are not land grabbers under Section 8(1) of the Act, is remain un-challenged by the respondent herein. In view of the above, there is no other option left for the Special except to give direction to assign the land. The powers of the Special Court under the aforesaid Act, are very limited, therefore, we hold that the Court below was not right in giving such directions. If the respondent-Government so advised, it is open for them to approach the Civil Court for necessary relief. The Civil Court is directed to dispose of the matter on merits in accordance with law.

Subject to the above observations, the Writ Petition is accordingly allowed and the order of the court below is set aside. No order as to costs.

Mr. D. Prakash Reddy, learned senior counsel submits that in view of the directions given by the Civil Court, the petitioners-land grabbers have already approached the authorities, but however, their request was rejected. Having regard to the aforesaid finding given in this, consequential steps taken by the petitioners or orders passed by the Special Court in any way goes against them. Therefore, it is always open for the petitioners to raise all such objections that are available to them.

B. PRAKASH RAO, J

_____

G. BHAVANI PRASAD, J

Date: 3.09.2007
KA